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Trade-Marks

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NOTICE.

The growing and, I may say, vital importance of the proper protection of the trade-marks and trade names of American manufacturers, especially in foreign countries owing to the great and increasing expansion of the foreign trade of the United States, has induced me to publish this little booklet for the convenience of my correspondents.

This work is not intended to be exhaustive in any particular. It is rather designed to serve as a convenient handbook, presenting in concise form for ready reference the features most necessary to be available to lawyers and manufacturers to enable them to readily understand the leading points of the law and practice on this important subject matter, and to take the necessary steps to secure protection for this class of property.

I am always glad to furnish correspondents with more complete and precise information upon any specific questions either of law or practice, and with respect to any country or countries.

WILLIAM E. RICHARDS.

New York, March 1, 1919.

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SCHEDULE OF CHARGES.

United States Trade-Marks.

All charges are payable in advance, cash with order, unless otherwise agreed upon.

The charges *include* preparation and filing of necessary papers, payment of government fees, and prosecution of applications in ordinary cases, *but do not include* special services in appeals, or contested cases such as oppositions, interferences or cancellations, the charges for which cannot be determined in advance, but which will be fair and reasonable for the services rendered.

Copies of the trade-mark are to be supplied to us.

Searches of prior registrations		$7.50
Application for Registration:		
One mark, in single class	from	$35.00
Each additional class, for same mark	"	35.00
Each additional mark, in same class	"	35.00
Application for Renewals, each mark	"	25.00
Assignments:		
Preparing and recording, for 300 words or under	"	5.00
Preparing and recording, over 300 and under 1,000 words	"	7.50
Preparing and recording, if over 1,000 words	"	12.50
Appeals from decisions examiner of trade-marks	"	50.00
Appeals from decisions examiner of trade-marks	from	50.00
" From decisions examiner of interferences	"	50.00
" *Pro forma,* to Commissioner	"	25.00
" To Commissioner of Patents	"	75.00
" To Court of Appeals of District of Columbia	"	100.00

Oppositions, Interferences, Cancellations. — As these involve more or less protracted proceedings before the examiner of interferences, charges cannot be named in advance but will be subject to agreement in each case.

SELECTION OF TRADE-MARKS.

Believing that a few suggestions upon this point may be appreciated, I offer the following ideas.

First: It will be obvious that the most desirable and effective marks are those that are, (a) simple in design; (b) easy to understand and remember; (c) attractive in appearance; and, (d) if the mark is an arbitrary word, easy to speak, spell, and attractive in sound.

Second: It must always be remembered that marks that are descriptive, or relate to the character or quality of the goods, or that are descriptive of the container or package, as well as geographical names, except when the latter are used in a fanciful or arbitrary sense, are unregisterable.

The misspelling of an unregisterable word, or its arrangement in a fanciful design, does not relieve it from objection if it conveys information of a descriptive character.

A trade-mark will not be registered if it resembles a known mark already in use by another for goods of the same descriptive qualities, or so closely resembles such a mark as to be likely to cause confusion. Deceptive or misleading marks are unregisterable.

A trade-mark cannot be a color, a shape, a package or a container, and descriptive words and terms taken from a foreign language are unregisterable.

Third: The following are types of trade-marks that are proper subjects of registration.

Arbitrary numbers, letters, or symbols, or combination thereof with a word or words, when not descriptive, or trade terms relating to the articles with which they are used.

A word or words used in a fancy (non-descriptive) sense, such as "Onyx" for hosiery, or "Velvet" for tobacco, and coined words or phrases, such as "Kodak" for cameras, "Socony" for oil products, and suggestive words, if not descriptive, are very desirable marks.

Pictorial marks are ordinarily registerable, and are frequently valuable, as for example the domino of the Crystal Domino Sugar, the chocolate girl of Baker's Chocolate, and many others. Such marks are often very suggestive without being descriptive.

Personal names are registerable when they are written, printed, or stamped in such a way that the peculiarities of the writing, printing or design constitute the most particular feature of the mark. Autographic signatures, either with or without a portrait of the individual are registerable if so individualized. Names of historical persons or mythological characters may be registered, but the name of a living person cannot be used without consent.

Portraits of living persons may be used by consent, and portraits of historical persons are frequently used.

Fourth: Lastly, a trade-mark is not registerable if its registration would be against public policy, or if its subject matter is scandalous or immoral, or if it is applied to articles harmful in themselves.

TRADE-MARKS IN THE UNITED STATES.

Methods of Protection.

Common Law and State Laws.

The right to the exclusive use of and property in trade-marks has always been recognized under the common law in the chancery courts. Many of the States have also enacted special Statutes for the protection of such property.

The right to, and property in a mark, commences with the adoption and use of the mark in question, provided the party adopting it is the first to make use of it for the particular class of goods to which he has applied it.

Some well-known attorneys advise their clients to depend upon the above form of protection, upon the ground that registration of the mark might have a limiting effect in connection with proceedings instituted under the State statutes, or under the common law, for infringement of the owner's rights; that registration is only of importance as giving a statutory right to bring suit for infringement, and that the use of the mark at a date earlier than that set up by another would have to be established before success in a suit could be insured.

I am not in favor of the above practice. In my opinion the advantages of registration are pronounced and important for the reasons, amongst others, stated in the next paragraph.

By Registration.

Registration of trade-marks may be effected in the United States Patent Office under the Act of February 20, 1905, as amended by the Acts of May 4, 1906, March 2, 1907, February 18, 1909, and Act of February 15, 1911.

The effect of registration under these laws affords the following benefits:

(*a*) Establishes *prima facie* evidence of ownership.

(*b*) Establishes the right to bring suit for infringement in the United States Courts, regardless of the question of residence.

(*c*) Enables the owner to effect registration in foreign countries where proof of registration in the owner's home country is a prerequisite.

(*d*) Enables the owner to prevent the admission into the United States of foreign manufactured articles of the same class bearing the same or similar marks.

(*e*) Where a prior application for registration has been regularly filed in a foreign country, which by treaty, convention or law affords similar protection to citizens of the United States, an application in this

country, if filed within four months from the date of such foreign application, is accorded the same force and effect as if filed on the date of said foreign application.

DIGEST OF LAW AND PRACTICE.

What May be Registered.

Any mark by which the goods of the owner of the mark may be distinguished from other goods of the same class, which is used in commerce with foreign nations or among the several States or with Indian tribes, subject, however, to the limitations set forth in the next paragraph.

What May Not be Registered.

The following marks are not registerable:

(*a*) Those which consist of or which comprise immoral or scandalous matter.

(*b*) Those which consist of or comprise the flag or coat of arms or other insignia of the United States, or any simulation thereof, or of any State or municipality, or of any foreign nation, or of any design or picture that has been or may hereafter be adopted by any fraternal society as its emblem, unless it is shown to the satisfaction of the Commissioner that the mark was adopted and used as a trade-mark by the applicant or applicant's predecessors, from whom title is derived, prior to the date of its adoption by such fraternal society as its emblem. By Act of Jan. 5, 1905, the sign of the Red Cross of America is prohibited from use for advertising or trade purposes.

(*c*) Marks which are identical with a registered or known trade-mark owned and in use by another for merchandise of the same descriptive properties, or which so nearly resemble such a trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers.

(*d*) Marks which consist merely in the name of an individual, firm, corporation, or association, *not* written, printed, impressed, or woven in some particular or distinctive manner, or in association with a portrait of the individual, but this does not prevent the registration of a trade-mark otherwise registerable because of its being the name of the applicant or a portion thereof.

(*e*) Mere words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term.

(*f*) No portrait of a living individual may be registered as a trade-mark except by the consent of such individual evidenced by an instrument in writing.

(*g*) No trade-mark will be registered which is used in unlawful business, or upon any article injurious in itself, or which has been used with the design of deceiving the public in the purchase of merchandise, or which has been abandoned.

Registrations Under Ten-Year Rule.

Nothing in the preceding paragraph will prevent the registration of any mark used by the applicant or his predecessors, or by those from whom title to the mark is derived, in commerce with foreign nations or among the several States or with Indian tribes, which was in actual and exclusive use as a trade-mark of the applicant, or his predecessors from whom he derived title, for ten years next preceding February 20th, 1905.

Who May Effect Registration.

Any owner of a trade-mark used in commerce with foreign nations, or among the several States, or with Indian tribes, provided:

(*a*) Such owner is domiciled within the territory of the United States; or,

(*b*) Resides in or is located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States; but in such case the applicant must have registered the mark in the foreign country in which he resides or is located, and file a certified copy of the certificate of such registration in the Patent Office.

(*c*) Any owner who though domiciled in a foreign country has a manufacturing establishment within the territory of the United States, may register marks used on the products of such establishment.

The word "owner" applies to and includes firms, corporations, and associations, as well as a natural person.

SEARCHES AS TO NOVELTY.

In order to ascertain whether any certain trade-mark has already been appropriated and registered for a specified class of goods, it is usual and advisable, to make a search covering the registered marks in such class. This may be quickly done, only a few days' time being required, and the cost is moderate. (See Schedule of Charges, page 3.)

APPLICATION FOR REGISTRATION.

Documents Required.

A complete application for the registration of a trade-mark comprises the following parts:

(*a*) *Petition,* signed by the applicant. A power of attorney, if an attorney is appointed, should be included in this document.

(*b*) *Statement,* signed by the applicant. This must specify the name, domicile, location, and citizenship of the party applying, and if the applicant be a corporation, or association, the State or nation under the laws of which organized; the class of merchandise, and the particular description of the goods comprised in such class upon which the trade-mark has actually been used; a statement of the manner in which the same is applied and affixed to the goods, and the length of time it has been used upon such goods. A description of the mark itself shall be included if required by the Commissioner, or if desired by the applicant, but in the latter case it must be of a character to meet the approval of the Commissioner.

(*c*) *Declaration,* signed by the applicant, under oath, before any person within the United States authorized by law to administer oaths, or, in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by the certificate of a diplomatic or consular officer of the United States, the declaration being attested in all cases by the proper official seal of the officer before whom the same is made. When the person before whom the declaration is made is not provided with a seal, his official character must be established by competent evidence, as by a certificate of a clerk of a court of record, or other proper officer having a seal.

(*d*) Drawing of the trade-mark on bristol board, substantially the same requirements and rules as for patents.

(*e*) Five specimens (or facsimiles, when, from the mode of applying or affixing to the goods, specimens cannot be furnished) of the trade-mark as actually used upon the goods. A few extra copies should be added for the attorney's use.

(*f*) The government fee of ten dollars.

APPLICANTS IN FOREIGN COUNTRIES.

(*g*) If the applicant resides or is located in a foreign country he must, unless the application relates to a trade-mark used upon goods made in a manufacturing establishment within the United States, set forth that the trade-mark has been registered by him, or that an application for registration thereof has been filed by him in the foreign country in which he resides or is located, and give the date of such registration or application. A certified copy of the certificate of such registration must be filed before the certificate of registration in this country will be issued.

(*h*) If the applicant resides or is located in a foreign country he must, before the issuance of the certificate of registration, file a notice in writing designating some person residing within the United States on

whom process or notice of proceedings affecting the right of ownership of the trade-mark may be served with the same force and effect as if served upon the applicant or registrant in person.

PROCEDURE IN PATENT OFFICE.

Examination.

Applications are examined as to form and merits. When the examiner of trade-marks finds reasons for objections or refusal of registration the applicant is notified, the reasons for objection or refusal stated, and such information and references given as may be useful in the further prosecution, if any.

If it appear that registration is proper the mark will be published in the Official Gazette at least thirty days prior to the date of registration to permit of opposition being filed by parties believing they would be damaged by such registration. If no notice of opposition is filed within thirty days' time, notice of the allowance of the application is given, and a certificate of registration will be issued and bear date as of the fourth Tuesday following the first Thursday thereafter.

Amendments.

The statement may be amended to correct informalities, or to avoid objections made, or for other reasons arising in the course of examination, but no amendments may be made to the description or drawing unless warranted by something in the specimens or facsimiles originally filed. A declaration cannot be amended. If necessary, a substitute declaration may be filed.

Amendments may be made after allowance of an application, if the case has not been printed, on the recommendation of the examiner, approved by the Commissioner, without withdrawing the case from issue.

Oppositions.

Any person who believes he would be damaged by the registration of a mark may oppose the same by filing a written notice of opposition, accompanied by the fee of ten dollars, stating the grounds therefor, within thirty days after the publication in the Official Gazette of such mark. This notice of opposition must be verified by the person filing the same before one of the officers designated to take declarations. (See Documents Required, above.)

An opposition may be filed by a duly authorized attorney, but must be duly verified by the opposer, within a reasonable time after such filing, or it will be null and void.

In case of opposition the examiner of interferences takes charge of the case and gives notice to the applicant or registrant, who must make

answer at such time, not less than thirty days from the date of the notice, as shall be fixed by the examiner. The practice in opposition cases follows, as nearly as possible, the practice in interference proceedings.

Interferences.

An interference will be declared whenever an application is made for the registration of a trade-mark which is substantially identical with a mark appropriated to goods of the same descriptive properties for which a certificate of registration has been issued to another, or for which application for registration has been previously made by another, or which so nearly resembles such trade-mark, or a known trade-mark owned and used by another, as, in the opinion of the Commissioner, is likely to be mistaken therefor by the public.

All preliminary questions must have been settled before such declaration, the mark must have been decided to be registerable, and it must have been published at least once in the Official Gazette.

The practice follows, as nearly as practicable, the practice in interferences in patent matters.

If two or more applicants claim substantially the same registerable mark, and the application of one of them is ready for publication, the examiner may require the other applicants to put their applications in condition for publication within a specified time in order that an interference may be declared, and if any party fail to do so, the declaration of interference will not be delayed, but the application of such party will be held for revision and restriction after final judgment, subject to other interferences.

The examiner of interferences may, either before or in his final decision, direct the attention of the Commissioner to any matter which cannot be acted upon by him, which in his opinion precludes a proper determination of questions raised by the proceedings, or amounts to a statutory bar to the registration of the mark. In such case the Commissioner may, before judgment, suspend the interference or opposition and remand the case to the examiner of trade-marks for his consideration of such matters. If the case be not so remanded, the examiner of trade-marks will, after judgment, consider any matter affecting right to registration which may have been brought to his attention, unless the same shall have been previously disposed of in the proceeding.

Motions may be made to dissolve an interference upon the ground that, (a) no interference in fact exists; (b) that there has been such irregularity in declaring the same as will preclude a proper determination of the question of the right of registration; (c) or denying the registerability of an applicant's mark.

Such motions, and all motions of a similar character, should be made, if possible, not later than the thirtieth day after the notices of the declaration of interference have been mailed, and should be accompanied by a motion to transmit the same to the examiner of trade-marks. The examiner of interferences will thereupon notice the latter for hearing upon a day certain.

When in proper form the motion to dissolve will be transmitted for determination to the examiner of trade-marks, who will fix a day certain for the hearing of the motion upon the merits, and give notice thereof to all the parties.

If a stay of proceedings is desired, a motion therefor should accompany the motion for transmission.

Motions to shift the burden of proof should be made before the examiner of interferences for his determination, from whose decision thereon there is no appeal, though the matter may be reviewed on appeal from the final decision upon the question of priority.

The decision of the examiner of trade-marks, upon a motion for dissolution, is binding upon the examiner of interferences unless reversed or modified upon appeal.

All preliminary questions having been settled, terms are fixed by the examiner within which testimony may be taken by all the parties, and, the testimony having been duly filed, determination is made as to the facts as to the adoption and use, and the rights of the several parties, the first to adopt and use the mark being entitled to registration thereof.

Cancellations.

Any person, deeming himself to be injured by the registration of a trade-mark, may, at any time, make application for the cancellation of such registration. The application must state the grounds for cancellation, and is required to be filed in duplicate, and must be verified by the applicant before one of the officers named under "Declaration" on page 8.

The examiner of interferences will then give notice thereof to the registrant of the mark, who must make answer at such time, not less than thirty days from the date of the notice, as shall be fixed by the examiner.

The proceedings follow, as nearly as practicable, the practice in interferences in patent matters.

If it appears, after a hearing, that (a) the registrant was not entitled to the use of the mark at the date of his application for registration thereof, or, (b) that the mark is not used by the registrant, or, (c) that it has been abandoned, and the examiner of interferences so decides, the Commissioner will cancel the registration of the mark, unless appeal be taken from such decision within the time limit fixed.

(See also "Interfering Registered Trade-Marks," page 14.)

Appeals.

An appeal may be taken to the Commissioner by petition upon any proper question which has been acted upon by the examiner of trade-marks, not involving the merits of the mark claimed, the refusal of registration thereof, or a requirement for division, without payment of a government fee. A time will be fixed for hearing such petition, and the examiner required to furnish a written statement of the grounds of his decision upon the matters averred in such petition, and furnish a copy thereof to the petitioner, within five days after being notified of the order fixing the day of hearing.

From an adverse decision of the examiner of trade-marks upon an applicant's right to register a trade-mark, or to renew a registration, or from a decision of the examiner of interferences, an appeal may be taken to the Commissioner upon payment of a fee.

From an adverse decision of the Commissioner in the cases named in the last paragraph only, an appeal may be taken to the Court of Appeals of the District of Columbia in the manner prescribed by the rules of that court.

Date and Duration of Registration.

Certificates of registration for registerable trade-marks are issued after allowance and publication of the mark in the Official Gazette. The weekly issue closes on Thursday, and certificates of registration of that issue bear date as of the fourth Tuesday thereafter.

A certificate of registration remains in force for twenty years from its date unless the trade-mark has been previously registered in a foreign country, in which case such certificate ceases to be in force on the day on which the mark ceases to be protected in such foreign country, and in no case remains in force more than twenty years unless renewed.

Old Registrations.

Certificates of registration in force on the first day of April, 1905, will remain in force for the periods for which they were issued, and are renewable under the provisions, conditions, and for the periods of time, prescribed by the present law.

Renewal of Registration.

A certificate of registration may be renewed from time to time for like periods, upon application by the registrant, his legal representatives, or transferees of record in the Patent Office, and upon payment of new fees. Such application may be made at any time not more than six months prior to the expiration of the period for which the certificate of registration was issued or renewed.

Assignments.

Every registered trade-mark, and every mark for the registration of which application has been made, together with the application for registration thereof, is assignable in connection with the good-will of the business in which the mark is used. Such assignment must be in writing, and duly acknowledged according to the laws of the country or State in which the same is executed.

An assignment is void as against any subsequent purchaser for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from its date.

A certificate of registration may be issued to the assignee of an applicant, provided the assignment is of record in the Patent Office.

Infringements.

The registration of the trade-mark is *prima facie* evidence of ownership. Any person who shall, without the consent of the owner thereof, reproduce, counterfeit, copy, or colorably imitate any such trade-mark and affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such merchandise, and shall use, or have used, such reproduction, counterfeit, copy, or colorable imitation in commerce among the several States, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefor at the suit of the owner thereof.

Exemplary Damages.

The court may enter judgment in any such action, in which a verdict is rendered for the plaintiff, for any sum above the amount found by the verdict as the actual damages, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

Jurisdiction of Courts.

The circuit and territorial courts of the United States and the Supreme Court of the District of Columbia have original jurisdiction, and the circuit courts of appeals of the United States and the Court of Appeals of the District of Columbia have appellate jurisdiction of all suits at law or in equity respecting registered trade-marks, without regard to the amount in controversy.

Writs of certiorari may be granted by the Supreme Court of the United States for the review of cases in the same manner as provided for patent cases.

Injunctions.

The several courts vested with jurisdiction have power to grant injunctions, to prevent the violation of any right of the owner of a registered trade-mark, on such terms as the court may deem reasonable, and may enforce the same by proceedings to punish for contempt, or otherwise.

Accounting for Profits—Damages.

Upon a decree being rendered in any such case for wrongful use of a trade-mark the complainant is entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court will assess the same or cause the same to be assessed under its direction. The court may also increase such damages, in its discretion, as stated under "Exemplary Damages."

In assessing profits the plaintiff is only required to prove defendant's sales only; the defendant must prove all elements of cost necessary.

Seizure of Counterfeits.

In any case involving the right to a registered trade-mark, in which the verdict has been found for the plaintiff, or an injunction issued, the court may order that all labels, signs, prints, packages, wrappers, or receptacles in the possession of the defendant, bearing the trade-mark of the plaintiff or complainant, or any reproduction, counterfeit, copy, or colorable imitation thereof, be delivered up and destroyed.

Exceptions.

No action or suit can be maintained under the provisions of the trade-mark laws in any case where the mark is used in unlawful business, or upon any article injurious in itself, or where the mark has been used with the design of deceiving the public in the purchase of merchandise, or has been abandoned, or upon any certificate of registration fraudulently obtained.

Fraudulent Registrations.

Any person who procures registration of a trade-mark, or entry thereof, by a false or fraudulent declaration or representation, oral or in writing, or by any false means, is liable to pay any damages sustained in consequence thereof to the injured party, to be recovered by an action on the case.

Interfering Registered Trade-Marks.

Whenever there are interfering registered trade-marks, any person interested in any one of them may have relief against the interfering

registrant, and all persons interested under him, by suit in equity in the United States courts. The court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the registrations void in whole or in part according to the interest of the parties in the trade-mark, and may order the certificate of registration to be delivered up to the Commissioner of Patents for cancellation.

Counterfeited Marks or Names—Prohibition of Entry.

No article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention or law affords similar protection to citizens of the United States, or which shall copy or simulate a duly registered trade-mark, or bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than in the country or locality where it is in fact manufactured, will be admitted to entry at any customs-house of the United States.

The act does not affect names or trade-marks previously recorded in the Treasury Department, and as to them the protection granted so far as concerns prohibition of importation continues.

The act does not appear to make it compulsory for manufacturers or traders to register names (not trade-marks) in the Patent Office, in order to prevent illegal importations, but they are required to obtain due registration of their trade-marks, before the Treasury Department can act with respect thereto.

In order to aid the officers of the customs in enforcing this prohibition, the manufacturer or trader should make application to the Treasury Department, stating the name of the owner, his residence, and the locality in which his goods are manufactured, and in case of trade-marks a certified copy of the certificate of registration must be filed, and the names of the ports to which facsimiles should be sent should be given. A sufficient number of facsimiles should accompany the application to provide one copy for each port named with ten additional copies for the files of the department.

In case of the name of a domestic manufacture, manufacturer or trader (not trade-mark), proper proof of ownership, and of the country or locality in which the goods are manufactured must be filed, which must consist of the affidavit of the owner or one of the owners, certified by an officer entitled to administer oaths and having a seal. (See "Declarations," page 8.)

Marking Required.

Registrants of trade-marks must give notice to the public of such registration, either by affixing to the mark the words "Registered in U. S. Patent Office," or "Reg. U. S. Pat. Off.," or when, from the character or size of the trade-mark, or from its manner of attachment to the article to which it is appropriated, this cannot be done, then by affixing a label containing a like notice to the package or receptacle wherein the article or articles are inclosed.

In any suit for infringement by a party failing to give notice as above, no damages shall be recovered, except on proof that the defendant was duly notified of infringement, and continued the same after such notice.

CLASSIFICATION OF MERCHANDISE.

Below I give the official classification of merchandise for the purposes of registration. It should be remembered that each registration embraces only the goods named in the application, and in a single class only. An applicant may, at his option, include any or all goods in such class, provided that the mark has been actually used upon all the goods specified.

Registration In More Than One Class.

Where a trade-mark has been used upon goods included in more than one class, separate applications should be filed for each such class to cover the goods included in that class.

Series of Marks.

Where a manufacturer or trader has used two or more trade-marks upon goods embraced in a class, separate applications are required for each of said marks, and where such marks have been used upon goods included in several distinct classes, separate applications are required for each mark in each of such classes.

Classes.

1. Raw or partly prepared materials.
2. Receptacles.
3. Baggage, horse equipments, portfolios and pocketbooks.
4. Abrasive, detergent, and polishing materials.
5. Adhesives.
6. Chemicals, medicines, and pharmaceutical preparations.
7. Cordage.
8. Smokers' articles, not including tobacco products.

9. Explosives, firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steam-fitting supplies.
14. Metals and metal castings and forgings.
15. Oils and greases.
16. Paints and painters' materials.
17. Tobacco products.
19. Vehicles, not including engines.
20. Linoleum and oiled cloth.
21. Electrical apparatus, machines, and supplies.
22. Games, toys, and sporting goods.
23. Cutlery, machinery, and tools, and parts thereof.
24. Laundry appliances and machines.
25. Locks and safes.
26. Measuring and scientific appliances.
27. Horological instruments.
28. Jewelry and precious-metal ware.
29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery.
33. Glassware.
34. Heating, lighting and ventilating apparatus, not including electrical apparatus.
35. Belting, hose, machinery packing, and nonmetallic tires.
36. Musical instruments and supplies.
37. Paper and stationery.
38. Prints and publications.
39. Clothing.
40. Fancy goods, furnishings, and notions.
41. Canes, parasols, and umbrellas.
42. Knitted, netted, and textile fabrics.
43. Thread and yarn.
44. Dental, medical, and surgical appliances.
45. Beverages, nonalcoholic.
46. Foods and ingredients of foods.
47. Wines.
48. Malt extracts and liquors.
49. Distilled alcoholic liquors.
50. Merchandise not otherwise classified.

NOTE: Class 18 was abolished February 24, 1909.

TRADE-MARKS IN FOREIGN COUNTRIES.

Comparison of Practice.

At the outset it should be noted that a marked difference exists between the practice in the United States and that in foreign countries.

In the United States adoption and use of a mark is necessary before registration can be effected. In foreign countries, almost without exception, adoption and use is not a prerequisite to registration.

In many foreign countries registration is either conclusive of ownership regardless of use, or becomes conclusive after a short time from the date of registration.

Another very important point of difference should be noted. The same restrictions as to descriptive terms, geographical names and surnames do not exist in many countries, and in many other countries the laws are more lenient in this regard than those in the United States. In countries such as the Argentine Republic, Chile, Uruguay, etc., such marks are frequently registered, and become very valuable for trading operations.

Dangers of Failure to Register Marks Abroad.

American manufacturers, traders, and exporters of merchandise to foreign countries run a very real and grave danger if they fail to register and protect their trade-marks in the various countries in which their goods are sold.

Goods which are advertised, or become popular by use and sale in foreign markets, become known by their marks or names, and these are quickly imitated or counterfeited if the rightful owners do not properly protect them by registration.

An even greater danger lies in the liability of the piracy of well-known marks by unscrupulous foreign traders, particularly enemy traders such as the German and Austrian, who, especially in late years, have not hesitated to use and register in their own names valuable marks belonging to American and other manufacturers, thereby acquiring the property in such marks in the foreign countries in which they are so registered, to the exclusion of the legitimate owners, who are thereby prevented from using their own lawful trade-marks or names in such countries. I have treated this subject more fully under "Piracy of Trade-Marks," below.

If an owner fails or neglects to protect his trade-marks abroad until the happening of one or the other of the above events, he is face to face with the following facts: (a) he must either tamely submit to the flooding of his market with goods which are often very inferior, and which bear imitations or counterfeits of his name or marks; or, (b) in countries where registration is not conclusive of ownership, he must engage in

costly and often protracted litigation or negotiations to establish his ownership, and stop the imitation or counterfeiting; or, (c) in countries where registration is conclusive of ownership, he must either cease using his own marks, or be liable for damages for use thereof by the registrants, or acquire the right to the use thereof by negotiation or purchase, which has in the past, in many cases, been a very expensive and vexatious proceeding.

PIRACY OF TRADE-MARKS.

Owing to the fact that in many countries registration is conclusive of ownership, and is conclusive in other countries after a limited period of time, a practice has grown up among unscrupulous traders which may well be called "piracy."

As illustrative of this fact I publish below an excerpt from the Commerce Reports issued by the Bureau of Foreign and Domestic Commerce of the United States Department of Commerce.

"The Necessity of Trade-Mark Registration Abroad.

The apparent increase in the number of unauthorized applications for the registration of American trade-marks abroad calls for an emphatic reminder of the necessity of early registration of valuable trade-marks, especially in those foreign countries where the ownership of marks is based upon registration. The countries of Latin America have furnished a particularly profitable field for the registration of trade-marks for speculative purposes as most of those countries grant the exclusive right to use a mark to the first applicant without regard to its prior use by another. Nearly every issue of the official bulletins of some Latin-American countries contains applications for trade-mark registration that are evidently fraudulent or at least unauthorized. The names of automobiles, motor trucks, pharmaceutical preparations, and other articles the sale of which depends largely upon advertising and good will have been particularly subject to misappropriation, and recently a single firm applied for this registration of the trade-marks of six among the best-known American cars. If registration had been granted, it would have been practically equivalent to the acquisition of an exclusive agency for the importation of each of these six cars in one of the most important foreign markets for automobiles unless the manufacturers were willing to adopt a new trade-mark for that particular market.

In another case the designation "Ford American Products" was sought to be registered in a South American country for all classes of goods. The effect of this registration would probably have been

to give to the local registrant absolute control over the use of the word "Ford" on all goods sold in that country. This latter case is illustrative of the difficulties that may arise when a trade-mark used in the United States by various manufacturers for different classes of goods is registered abroad in such a way as to cover several of these classes. Even if the mark is registered in good faith by one entitled to its use, the form of registration may nevertheless prevent the use of the mark on a distinct kind of goods by another manufacturer except with the consent of the prior registrant.

Dangers of Registration in Name of Agent.

A somewhat different but none the less embarrassing situation may be presented when a mark is registered in the name of the local agent of the American manufacturer or exporter. As long as the exclusive agency continues there are usually no difficulties, but should the principal desire to make a change in the agency arrangements he may find that the agent has it in his power to prevent the importation of the trade-marked goods except when consigned to him or under such terms as he may dictate. This danger has been further emphasized since the outbreak of the war by the experience of some exporters with agents of enemy nationality. The placing of the name of the agent on the Enemy Trading List has resulted in a suspension of shipments to the former agent, while the control of the trade-mark through registration in the name of the agent has prevented shipment from being made to any others except under a different mark. It is hoped that some relief from this difficulty may be obtained through a modification of the procedure for the cancellation of unauthorized registrations, but in the meantime no shipments of the trade-marked goods can be made to countries where firms of enemy nationality control the trade-mark.

The applications for trade-mark registration published in the official gazettes of the countries where the most difficulties have been experienced are examined regularly in the Bureau of Foreign and Domestic Commerce in order, so far as possible, to discover unauthorized attempts to appropriate American trade-marks, and the interested persons are notified. Several hundred of such notices have been sent out in recent months, and in some cases the rightful owners have been enabled to prevent the loss of their marks. It is impossible, however, to identify many of the marks examined, and frequently the owner of the mark can not be located. The time that necessarily elapses before the publications are received from the more remote countries like Argentina is often sufficient for the

local applicant to complete registration before any opposition can be brought.

The only safe course to follow is to register trade-marks promptly in the name of the manufacturer in countries where any considerable business is carried on or anticipated. Even if exportation at the present time is limited by war conditions, the registration of the mark abroad may well be regarded as one of the fundamental steps of preparation for trade after the war. It is perhaps of even greater importance now than under normal conditions in view of the reported activity of enemy agents and others appropriating American trade-marks. The expense of registration usually represents only a reasonable outlay for the protection of good will, and it is suggested that any article which is worth advertising abroad is worth protecting by means of trade-mark registration. * * * Unless a company is represented abroad by agents of unquestionable competency it is generally preferable to have the entire business handled by an experienced attorney in the United States who has connections in foreign countries . * * *"

Excerpts from other publications referring to this extremely important matter follow on pages 31 and 32.

Importance of Registering Mark Exactly as Used.

In a number of foreign countries the courts have distinguished between a registered mark and an imitation thereof because of the fact that the mark as actually used upon the packages was not the same as the mark actually registered, and because the imitation presented distinguishing characteristics not found in one or both of the others, and unscrupulous traders taking advantage of this condition have been able to escape the penalties which would arise under the laws of other countries.

This has been particularly true with respect to the South American countries. Efforts are being made to secure the correction of this evil, but so far without pronounced success.

Manufacturers and traders should therefore see to it that their marks as actually used by them are placed upon the register.

Registration by Classes.

It is desirable for foreign registrations, where the same are not based upon the United States registration, that the same should be effected upon as wide a statement of goods, included within one general class, as possible, so that even while owners may not be able to sue for infringement, if the mark is used on goods not of the same general description as those in which they are for the time trading, their broad registration acts to

prevent competitors from securing the registration of a similar mark in that class on the same or similar goods, and thus leaves the ground open for the owner's legitimate trade expansions.

Moreover, this course saves the expense of constantly registering the mark for additional goods in such class.

This is of particular advantage to owners who are continually increasing their lines of trade, for as their trade expands with the addition of new articles, which require separate registrations at home to fully protect the mark as applied thereto, their foreign registrations, if properly drawn, have covered the new articles in advance.

Renewals of Registration.

These can generally be obtained for successive terms indefinitely. Except as indicated in the notes following the "Schedule of Charges" such renewals are granted for the same terms as the original registrations, after the same procedure by application, and at the same costs.

Countries Having Trade-Mark Treaties With the United States.

The following countries have entered into treaties or conventions with the United States for the reciprocal registration and protection of trade-marks: *Austria-Hungary, Belgium, Denmark, France, Germany, Great Britain, Italy, Japan, Roumania, Russia, Servia, Spain.*

The United States is also a member of the International Union for the Protection of Industrial Property, of which twenty-nine countries are members, and of the Pan-American Convention, particulars as to which will be found in the following pages.

The fact must be emphasized, however, that the "treaties or conventions" above specified, so far as citizens of the United States are concerned, only give them the right to apply for and obtain protection of their trade-marks in the respective treaty countries, a separate application being required in each country.

The International Union gives a four months' right of priority for filing separate applications in the other member countries, to the owners of trade-marks who have regularly applied for registration thereof in the United States, this priority commencing from the filing date of the U. S. application.

Table Showing Countries Where Registration is Conclusive of Ownership, and Countries Requiring Proof of Registration in Home Country as a Prerequisite to Registration There.

Registration Conclusive of Ownership	Conclusive after Limited Time	Require Proof of Registration in Home Country	No Proof Required	
Argentine Republic	Australia	Austria	Argentine Republic	Japan (and Korea)
Bolivia	Brazil	Bulgaria	Australia	Leeward Is.
Chili	Bulgaria	Cuba	Bahama Is.	Liberia
Costa Rica	Denmark	Denmark	Barbadoes	Luxembourg
Cuba	Great Britain	Finland	Belgian Congo	Malta (and Gozo)
Germany	Mexico	Germany	Belgium	Mauritius
Guatemala	Rhodesia	(and Colonies)	Bermuda	Mexico
Nicaragua	Russia	Greece	Bolivia	Morocco
Norway	Salvador	(including Crete)	Brazil	Newfoundland
Paraguay	Spain	Guatemala	(but increased cost.)	New Zealand
Peru	Uruguay	Haiti	British Guiana	Nicaragua
Portugal		Honduras	British Honduras	Nigeria
San Domingo		Hungary	British North Borneo	(including Lagos)
Servia		Manchuria	Burmah	Nyasaland
Sweden		Norway	Canada	Paraguay
Turkey		Panama	Ceylon	Peru
Venezuela		Portugal	Channel Is.	Philippine Is.
		(and Colonies)	(Guernsey, Jersey)	Porto Rico
		Russia	Chili	Rhodesia
		Servia	China	(Southern)
		Spain	Colombia	Roumania
		Sweden	Costa Rica	St. Lucia
		Switzerland	Curaçao	St. Vincent
			Cyprus	Salvador
			Dutch East Indies	San Domingo
			East African	Seychelles Is.
			Protectorate	Spain
			Ecuador	Sierra Leone
			Egypt	South Africa
			Eritrea	(Union)
			Falkland Is.	Straits Settlements
			Federated Malay	Surinam
			States	(Dutch Guiana)
			Fiji Is.	Trinidad
			France	(and Tobago)
			(and Colonies)	Tunis
			Gambia (British)	Turkey
			Gibraltar	Uruguay
			Gold Coast Colony	(special)
			Great Britain	Venezuela
			Grenada	Virgin Is.
			Holland	Zanzibar

TRADE-MARK CONVENTIONS.

The Berne Trade-Mark Convention.

The following thirteen countries are members of this Convention, viz.: *Austria, Belgium, Brazil, Cuba, France, Holland, Hungary, Italy, Mexico, Portugal, Spain, Switzerland, Tunis.*

The United States is not a member, and no advantage can be taken of the Convention by American citizens or corporations, nor even by branches of American business houses in such countries. Nor can international registrations effected under the Convention be assigned to citizens or corporations of non-member countries.

This Convention provides that upon payment of a single fee of $20 to the Central Bureau at Berne, the rights acquired by a registration obtained in one of the countries of the Convention are extended to cover the remainder of the countries belonging to the Convention.

It should be pointed out in this connection that American manufacturers and traders who have not registered their marks in these countries are exposed to the danger of having their marks appropriated by trade-mark pirates and registered in these countries under the Convention, so that the rightful owners may find that they are debarred from the use of their own marks there, their goods being liable in such case to confiscation on arrival at ports of entry in these countries, while they may be condemned to pay damages for infringement of their own marks, which will be owned by enemy rivals in such countries. The only remedy is by prompt registration of all useful marks before trade rivals have an opportunity of misappropriating them.

The International Union for the Protection of Industrial Property.

The following twenty-nine countries are members of this Union, viz.: *Australia, Austria, Belgium, Brazil, Ceylon, Cuba, Curaçao, Denmark and Faroe Islands, Dutch East Indies, France and Colonies, Germany and Colonies, Great Britain, Holland, Hungary, Italy, Japan and Korea, Mexico, New Zealand, Norway, Portugal, San Domingo, Servia, Spain and Colonies, Surinam, Sweden, Switzerland, Trinidad and Tobago, Tunis, United States.*

Registration in one of the countries belonging to the Union does not have the effect of affording protection in the other countries of the Union without separate registration in each country. It is provided, however, that an owner who has regularly filed his application for registration in his own country enjoys a period of priority of four months from the date of such application, for filing his application for registration in the other Union countries.

Pan-American Convention.

This Convention has been ratified by the United States and the following countries: *Costa Rica, Cuba, Guatemala, Honduras, Nicaragua, Panama,* and a Central Bureau for registrations, and the transaction of necessary business in connection therewith, is being organized in Havana, where it will be located.

It is, however, impossible to fix a date when the Bureau will be ready for business, as the necessary funds for its operation will only be provided after appropriation of their proportionate shares by the legislatures of the different countries, and so far this has not been done.

This Convention has not been ratified by, and will not apply to: *Mexico, Hayti, San Salvador,* so that even after the Convention becomes operative, separate registrations will be required in these countries.

A Bureau is proposed to be established at Rio de Janeiro to cover the Southern group of republics, but the Convention has not been ratified as yet by a sufficient number of the Southern countries to bring it into operation. It will probably be some time before this is done, and a still longer time will probably elapse before the Bureau is in working condition.

While the purpose of the Convention is, of course, to provide a simple and inexpensive method of effecting the registration of marks at the Central Bureaus, such registrations to be effective in all the countries adhering to the Convention, it is impossible at this time to say how far it will be safe to rely on such international registrations, and in the absence of decisions upon the point, and upon the point of infringement, to determine what measure of protection will be afforded thereby.

In any case, until the Southern republics, which up to now have been the principal piratical field for unscrupulous traders, have ratified and become bound by the Convention, it is most essential for manufacturers and traders to register their marks under the laws of each of these countries separately.

SCHEDULE OF CHARGES.

Foreign Registrations.

The charges named below cover the usual inclusive cost of making application for the registration of trade-marks in the countries named, but are necessarily subject to change without notice, as there are frequent changes in governmental fees, stamp duties, and other costs.

All charges are payable as follows: One-half thereof on giving the order; the remaining one-half when the applications are in readiness for transmission for filing.

Clients are expected to provide the electrotypes and copies of the mark required for filing, as well as copies of the latter for the filing

agent's use in each country. Electrotypes should not measure more than 1⅞ inches in either length or width, and should be blocked on wood, otherwise extra costs are incurred for which I must charge.

The charges include preparation of all documents; legalization of all powers of attorney where necessary; procurement of certified copies of U. S. registration, authentication of same at Interior and State Departments and subsequent legalization of same; making drawings, when required; payment of government filing, registration and stamp fees; and attorney's fees for prosecuting the application and obtaining registration in uncontested cases.

The charges do NOT *include* special services in contested cases for translations, arguments, amendments, oppositions, appeals and like special actions, the charges for which cannot be determined in advance, but which will be fair and reasonable for the services rendered.

NOTES: In the following schedule the figures following the names of countries refer to the notes following the schedule, to which reference should be made to understand the special practice in such countries.

COUNTRY	Charge	Term Years	Copies of Mark Needed	Electrotypes Required
NORTH AMERICA				
Canada (Specific) (1)	$45.00	24	5	None
Canada (General) (1)	55.00	Unlimited	5	None
Mexico (2)	37.50	20	15	1
Newfoundland	50.00	Unlimited	5	None
EUROPE				
Austria	35.00	10	10	1
Austria and Hungary	50.00	10	20	2
Belgium	36.00	Unlimited	6	1
Bulgaria	73.50	10	5	1
Channel Is.—Guernsey	37.00	14	6	None
Channel Is.—Jersey	37.00	14	6	None
Denmark	65.00	10	4	2
Finland	38.00	10	5	2
France and Colonies	34.00	15	6	1
Germany and Colonies	45.00	10	20	1
Gibraltar (Adv.)	60.00	10	4	1
Great Britain	30.00	14	6	1
Greece (and Crete)	70.00	10	6	1
Holland	50.00	20	6	1
Hungary	35.00	10	10	1
Hungary and Austria	50.00	10	20	2
Italy	50.00	Unlimited	6	1
Luxemburg	37.00	10	6	1
Malta and Gozo	42.00	14	6	1
Norway	50.00	10	10	1
Portugal	36.00	10	12	1
Roumania (3)	45.00	15	10	None

COUNTRY	Charge	Term Years	Copies of Mark Needed	Electro-types Required
Russia	$65.00	10	60	1
Servia	105.00	10	6	1
Spain and Colonies (4)	55.00	20	20	1
Sweden	65.00	10	6	2
Switzerland	43.00	20	5	1
Turkey	105.00	15	5	None
SOUTH AMERICA				
Argentine	65.00	10	8	1
Bolivia	75.00	10	6	1
Brazil, on U. S. Reg'n. (5)	72.00	15	6	None
Brazil, no U. S. Reg'n. (5)	120.00	15	6	None
British Guiana	50.00	14	6	1
Chile (21)	55.00	10	6	None
Colombia	100.00	20	16	1
Ecuador	80.00	20	26	1
Falkland Is.	65.00	14	10	1
Panama	100.00	10	6	1
Paraguay	68.00	10	5	1
Peru (6)	62.00	10	12	1
Surinam (Dutch Guiana)	41.00	20	6	1
Uruguay	84.00	10	5	1
Venezuela (7)	55.00	30	6	1
CENTRAL AMERICA				
British Honduras (Adv.)	52.00	10	6	1
Costa Rica (8)	58.00	15	6	1
Guatemala (9)	65.00	10	6	1
Honduras (10)	85.00	Unlimited	10	1
Nicaragua	65.00	10	10	1
Salvador (11)	75.00	20	25	1
WEST INDIES				
Bahamas	48.00	14	6	1
Barbados (12)	42.00	Unlimited	6	1
Bermuda	48.00	14	5	1
Cuba	55.00	15	30	1
Curaçao (Dutch W. I.)	53.00	20	6	1
Grenada (Adv.)	45.00	10	6	1
Haiti	35.00	Indefinite	5	None
Jamaica	60.00	14	15	1
Leeward Is.	50.00	14	10	1
Porto Rico (Registration)	41.00	20	8	None
Porto Rico (filing copy U. S.) (13)	25.00	20	None	None
St. Lucia (Adv.)	47.00	10	4	1
St. Vincent (Adv.)	47.00	10	4	1
Trinidad and Tobago	60.00	14	4	1
Virgin Is.	43.00	U. S. Term	10	1
AUSTRALASIA				
Australian Commonwealth	50.00	14	25	1
Fiji Is.	62.00	7	6	1
New Zealand	40.00	14	6	1

COUNTRY	Charge	Term Years	Copies of Mark Needed	Electro-types Required
ASIA				
British North Borneo	$67.00	Unlimited	6	1
Burmah	41.00	Unlimited	5	None
Ceylon	57.00	14	6	1
China (Shanghai) (14)	30.00	Unlimited	10	None
China (Tientsin) (14)	35.00	Unlimited	10	None
Cyprus	67.00	14	10	1
Dutch East Indies	45.00	20	6	1
Federated Malay States (Adv.) (15)	57.00	10	10	1
Hong Kong	100.00	14	6	1
India (British) (16)	37.00	Unlimited	5	None
India (Upper) (17)	37.00	Unlimited	5	None
Japan and Korea	48.00	20	8	1
Manchuria	48.00	Unlimited	5	1
Philippine Is. (Registration)	52.00	30	10	None
Philippine Is. (Deposit) (18)	26.00	20	None	None
Portuguese Colonies (19)				
Macao	36.00	10	None	None
Portuguese India	36.00	10	None	None
Timor	36.00	10	None	None
Siam	65.00	12	12	None
Straits Settlements	53.00	14	6	1
AFRICA				
Belgian Congo	40.00	Unlimited	6	1
East Africa Protectorate	43.00	14	6	None
Egypt A Registration (20)	36.00	10	5	1
Egypt B Registration (20)	60.00	10	10	2
Egypt C Registration (20)	82.00	10	15	3
Eritrea	55.00	Unlimited	6	1
Gambia, British	54.00	14	6	1
Gold Coast Colony and Ashanti	55.00	14	6	1
Liberia	62.00	14	6	1
Mauritius	49.00	Unlimited	5	1
Nigeria, Southern, and Lagos	62.00	14	5	1
Nyasaland, British	47.00	14	6	1
Portuguese Colonies (19)				
Angola	36.00	10	None	None
Cape Verde	36.00	10	None	None
Guinea	36.00	10	None	None
St. Thomas and Prince Is.	36.00	10	None	None
East Coast, Government Territory	36.00	10	None	None
East Coast, Nyasa Co.'s Territory	36.00	10	None	None
East Coast, Mosambique Co.'s Terr	36.00	10	None	None
Rhodesia, Southern	67.00	14	6	1
Seychelles Is.	46.00	14	6	1
Sierra Leone (Adv.)	61.00	10	6	1
South Africa (Union)	57.50	14	10	1
Zanzibar	70.00	14	6	1

Notes.

(Adv.) In a number of countries there is no provision for registration, but the laws provide penalties for false marking. It is usual in these countries to establish evidence of ownership, and to warn the public against imitating by advertising the mark in the official or other local papers.

1. *Canada.* A Specific mark is one used upon specified goods in a single class; a General mark is one that is used by the owner for all trade purposes.
2. *Mexico.* Marks used by merchants must contain the notice "Marca de Comercio, Registrada," or the abbreviation "M. de C., Rgtrda" and the number and date of registration. Marks used by manufacturers, traders, etc., must contain the notice "Marca Industrial Registrada," or the abbreviation "M. Ind. Rgtrda" and the number and date of registration. If a mark consists of or contains words or letters, it must include as a conspicuous feature the name of the owner and the place where his establishment is located.
3. *Roumania.* Foreigners may effect registration only when they are citizens of countries having treaty relations with Roumania on the subject. The United States has such treaty relations.
4. *Spain.* Taxes are payable every five years. My charge for effecting such payments is: fifth year, $10.00; tenth year, $12.50; fifteenth year, $15.00.
5. *Brazil.* The smaller charge applies when the mark has been registered in the home country and a copy of the certificate of registration is filed with the application; the larger charge applies when an independent application is made without reference to a prior registration. When the certified copy of the home registration and the certificates attached thereto exceed 500 words, a charge of $3.00 per 100 words is made for additional translation and publication.
6. *Peru.* Firms and corporations are required to furnish evidence of their legal existence.
7. *Venezuela.* While the term of registration is thirty years, the protection ceases at the end of the term of the prior registration in the home country.
8. *Costa Rica.* Successive renewals may be made for ten years each.
9. *Guatemala.* Registration is granted to foreigners only when they are citizens of countries having treaty relations with Guatemala upon the subject. The United States has such treaty relations. Guatemala is also a member of the Pan-American Convention.
10. *Honduras.* Applicant must have, or appoint, a local agent for the sale of his goods.

11. *Salvador.* Under a recent decree, taxes are now payable for each year of the duration. The charge named includes the taxes for the first five years. My charge is $5.00 per year for effecting payment of each year's tax thereafter.
12. *Barbados.* To obtain protection for a mark registered in a country adhering to the International Union, it is sufficient to advertise such registration in Barbados; otherwise the mark must be registered there. The cost is the same in either case.
13. *Porto Rico.* Protection may be obtained in two ways: (a) by independent registration; or, (b) by filing a certified copy of the U. S. certificate of registration.
14. *China.* Marks may either be registered at the Consulate and Customs Bureau at Shanghai, or the Consulate and Customs Bureau at Tientsin, or at both places, as desired.
15. *Federated Malay States.* These include Negri Sembilan, Pahang, Perak, and Selangor.
16. *India.* No registration act is in force, but an act exists for the punishment of false marking, and it is the practice to record marks in the Office for the Registration of Deeds.
17. *India* (Upper). No registration law exists, but the Chamber of Commerce has established an unofficial register.
18. *Philippine Islands.* Protection may either be secured by an independent registration or by the deposit of a copy of an U. S. certificate of registration.
19. *Portuguese Colonies.* Registration must first be effected in Portugal, and protection thereafter extended to the desired Colony or Colonies.
20. *Egypt.* Registration may be made at the Courts either of (a) Cairo, Alexandria or Mansurah, or at the Courts of (b) two, or (c) all of said places.
21. *Chili.* To manufacturer's marks should be added the initials "M. de F.," and to all commercial marks "M. C.," as notice of registration.

(Evening Telegram, June, 1918.)

LEADERS UNITE AGAINST PIRATES OF TRADE-MARKS

Latin-American Countries Interested in Protecting American Trade After War

To Prevent Any Fraudulent Registration, United States Aim

WASHINGTON, Saturday.—The coming of Dr. Mario Diaz Irizar, of Cuba, to the United States for conference with business men and other officials of the Pan-American Trade-Mark Bureau of which Dr. Irizar is director in North America, is expected to result in greatly furthering the protection of manufacturers who are endeavoring to increase their export trade in Latin-American countries.

The matter of trade-marked articles in Latin America has caused great trouble to business men, and has long offered a wide field for unscrupulous adventurers and notably for Germans, some of whom have secured large amounts of money from American manufacturers by methods closely resembling blackmail. Patents and copyrights come under the same head, and efforts are being made by the Pan-American Trade-Mark Bureau to correct the evils that have grown up in pirating the good names of reliable manufactured articles.

DENOUNCES PIRATES.

The purpose of the pirates is never to manufacture, according to William C. Wells, chief statistician of the Pan-American Union.

"They simply register the trade-mark," he said to-day, "and thereafter control the selling of the article in the country in which they have registered it. That is all that is necessary under the laws of all the Latin-American countries.

"The object of the Pan-American Trade-Mark Bureau is to prevent this fraudulent registration. All the countries of both Americas are interested in the bureau, which has branches in North and South America. The *modus operandi* of the man who registers trade-marks is simple. All he has to do is to find some article that is being advertised extensively in the United States and of which there is a probability that it will be introduced in his country.

TRICKSTER GETS ROYALTY.

"The registration fee is usually small, and when the trickster has made his registration he sits back and waits for the business to come to him. When the manufacturer comes to introduce his article in that country he finds that he has to deal with the man who registered it. Sometimes he has to pay a big royalty or a large lump sum to be permitted to operate there.

"It is to correct this state of affairs that the bureau was organized."

It was said by an official in Washington that a United States manufacturer can easily circumvent the trade-mark pirates by changing the trade-mark when he

is ready to introduce the article in any country where it has been fraudulently registered.

"But these manufacturers are loath to do this," said the official. "They think that the trade-mark is the valuable thing about the article. They are also sentimental about it. As a matter of fact the trade-mark is frequently a drawback instead of an advantage. English words used in trade-marks are often unpronounceable in Spanish, and the consumer has to make known his wants by signs or nicknames. If the manufacturer would change his trade-mark so that the Latin-American could pronounce it, he would circumvent the pirates and popularize his article. And the intrinsic value of the goods would establish the market for the manufacturers."

SPECIAL.

I make a practice of advising my correspondents regarding important developments and changes in the law and practice in the United States and foreign countries with reference to patents and trade-marks.

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